

The Gazette



of India

EXTRAORDINARY

PART II—Section 3—Sub-section (i)

PUBLISHED BY AUTHORITY

No. 8] NEW DELHI, WEDNESDAY, JANUARY 9, 1963/PAUSA 19 1884

MINISTRY OF FINANCE

NOTIFICATION

New Delhi, the 9th January 1963

DEFENCE OF INDIA (AMENDMENT) RULES, 1963

G.S.R. 89.—In exercise of the powers conferred by section 3 of the Defence of India Act, 1962 (51 of 1962), the Central Government hereby makes the following further amendment in the Defence of India Rules, 1962, namely :—

1. **Short title.**—These rules may be called the Defence of India (Amendment) Rules, 1963.

2. **Insertion of new Part XIII A.**—In the Defence of India Rules, 1962, after Part XII, the following Part shall be inserted, namely :—

“PART XII A

GOLD CONTROL

CHAPTER I

Preliminary

126A. Definitions.—In this Part, unless the context otherwise requires,—

(a) “Board” means the Board constituted under rule 126J;

(b) “company” means any company as defined in section 3 of the Companies Act, 1956 (1 of 1956);

(c) “dealer” means any person who carries on, directly or otherwise, the business of—

(i) making, manufacturing, buying, selling, supplying, distributing, melting, processing or converting ornaments,

(ii) buying, selling, supplying, distributing, melting, processing or converting gold for the purpose of making or manufacturing ornaments,

whether for cash or for deferred payment, or for commission, remuneration or other valuable consideration, and includes—

(i) an undivided Hindu family which carries on such business; and

(ii) a local authority, company, society registered under the Societies Registration Act, 1860 (21 of 1860), co-operative society incorporated under any law

with respect to co-operative societies, club, firm or other association which carries on such business, or

- (a) buys ornaments, or gold for the purpose of making ornaments, from or
- (b) makes or manufactures ornaments for,
- (c) processes, melts or converts ornaments, or gold for the purpose of making ornaments, for,
- (d) sells, supplies or distributes ornaments, or gold for the purpose of making ornaments, to,

its members.

(iii) a commission agent, broker, del credere agent, auctioneer or other mercantile agent, by whatever name called, who carries on such business on behalf of any principal;

Explanation.—For the purposes of this Part—

(a) every person who acts as an agent of a dealer residing outside India and carries on the business of such dealer in India or acts on behalf of such dealer as—

- (i) a mercantile agent as defined in the Indian Sale of Goods Act, 1930 (3 of 1930); or
- (ii) an agent for handling gold or documents of title relating to gold; or
- (iii) an agent for the collection or payment of sale price of gold or as a guarantor for such collection or payment; and

(b) every branch in India of a firm or company having its registered office outside India,

shall be deemed to be a dealer;

(d) “gold” means gold, including its alloy, whether virgin, melted, remelted, wrought or unwrought, in any shape or form, of a purity of not less than nine carats and includes any gold coin (whether legal tender or not), any ornament and any other article of gold;

(e) “notification” means a notification published in the Official Gazette;

(f) “ornament” means any article in a finished form, meant for personal adornment or for the adornment of any idol, deity or any other object of religious worship, made of, or manufactured from, gold, whether or not set with stones or gems, real or artificial, or with pearls, real, cultured or imitation or with all or any of them and includes parts, pendants or broken pieces of ornament;

(g) “primary gold” means gold in any unfinished form and includes all ingots, bars, blocks, slabs, billets, shots, pellets, rods and wires;

(h) “refiner” means the owner or occupier of a refinery;

(i) “refinery” means a place where gold is melted, processed, converted or refined with the aid of power.

CHAPTER II

Control of Business in Gold

126B. Prohibition of manufacture of articles of gold in certain cases.—On and from the date of publication of the Defence of India (Amendment) Rules, 1963 in the Official Gazette (hereafter in this Part referred to as the date of commencement in this Part),—

- (a) a dealer shall not make or manufacture any article of gold other than ornament,
- (b) a refiner shall not make or manufacture any article of gold other than primary gold,
- (c) any other person shall not make or manufacture any article of gold,

unless such dealer, refiner or other person is authorised by the Board by general or special order to make or manufacture such article.

126C. Restrictions on the making etc. or ornaments.—(1) As from the commencement of this Part,—

(a) no dealer, whether licensed under this Part or not, shall—

(i) make, manufacture or prepare, or

(ii) sell or otherwise transfer, agree to sell or otherwise transfer, or expose or offer for sale or transfer, and

(b) no person shall place any order with any dealer, whether licensed under this Part or not, for the making manufacture or preparation of, any ornament having gold of a purity exceeding fourteen carats :

Provided that nothing in this rule shall prevent any dealer having in his possession or custody any ornaments having gold of a purity exceeding fourteen carats on the date of commencement of this Part from selling or otherwise transferring such ornaments within a period of thirty days from such commencement or within such further period as the Board may, by general or special order, grant.

(2) As from the commencement of this Part, no person shall make or manufacture any article of gold of a purity exceeding fourteen carats:

Provided that this sub-rule shall not apply to the making or manufacture of primary gold.

126D. Prohibition of loans on hypothecation of gold.—As from the commencement of this Part, no person shall make, advance, or grant any loan to any other person on the hypothecation, pledge, mortgage or charge of any gold other than ornament unless such gold has been included in a declaration or a further declaration made under rule 126 I.

CHAPTER III

Licensing of Dealers and Refiners

126E. Licensing of dealers and refiners.—(1) Save as otherwise provided in this Part, no dealer who is registered under any law with respect to sales tax and no refiner shall carry on business as such dealer or refiner unless he holds a valid licence issued in this behalf by the Board.

(2) A licence issued under sub-rule (1) may contain such conditions and restrictions as the Board may think fit to impose.

(3) Every dealer who is on the commencement of this Part registered under any law with respect to sales tax and every refiner whose refinery is in existence on such commencement shall, as soon as possible and in any case before the expiry of thirty days after such commencement, make to the Board an application in such form and on payment of such fee as may be prescribed, for the issue of a licence under this rule.

(4) Every dealer who is after the commencement of this Part registered under any law with respect to sales tax shall, as soon as possible after such registration and in any case before the expiry of thirty days thereafter, make to the Board an application in like form and on payment of like fee for the issue of a licence under this rule.

(5) No person shall after the commencement of this Part, establish any refinery unless he has obtained a valid licence from the Board on an application in accordance with the foregoing provisions for the issue of a licence under this rule.

(6) Any dealer who is not required to be registered under any law with respect to sales tax may, if he likes, also, make to the Board an application in accordance with the foregoing provisions for the issue of a licence under this rule.

(7) Nothing in the foregoing provisions of this rule shall be deemed to prohibit any dealer or refiner who is required to apply for a licence under this rule from carrying on his business as such dealer or refiner for the period within which he

is required to apply for such licence and if he has applied for such licence, until he is granted a licence or is, by a notice in writing, informed by the Board that a licence cannot be granted to him.

(8) On the receipt of an application for the issue of a licence under this rule, the Board may, after making such inquiry, if any, as it may consider necessary, by order in writing either grant the licence or reject the application for the same:

Provided that no application for the issue of a licence made by a dealer registered under any law with respect to sales tax whether before or after the commencement of this Part or by a refiner whose refinery is in existence immediately before such commencement shall be rejected unless the Board is satisfied that any statements made in the application for the issue of the licence are incorrect or false in material particulars or that the applicant for the licence has contravened any of the provisions of this Part.

(9) A licence granted under this rule shall be cancelled by the Board if it is satisfied that any statements made in the application for the issue of the licence or in relation to the licence are incorrect or false in material particulars or that the holder of the licence has contravened any of the provisions of this part:

Provided that no licence shall be cancelled unless reasonable opportunity has been given to the holder thereof to show cause why the licence shall not be cancelled.

(10) (a) A dealer or refiner who, being required by this rule to make an application for a licence, has failed to do so within the period specified therefor or whose application for the issue of a licence has been rejected or whose licence has been cancelled, shall not, after the expiry of that period or after such rejection or cancellation, as the case may be, carry on his business and shall within thirty days from the date of such expiry, rejection or cancellation deposit with the Board the entire quantity of gold in his possession on the date of such expiry, rejection or cancellation.

(b) When any gold has been deposited with the Board under clause (a), the Central Government shall purchase such gold for a price at the rate of fifty three rupees and fifty eight paise per ten grammes of gold of a fineness of 0.995 or more and the Board shall thereupon refund the price of such gold to the person who has deposited such gold, or in the absence of such person to any other person who in the opinion of the Board, is entitled thereto.

(11) Every dealer and every refiner who is licensed under this Part shall display his licence at a conspicuous place of the premises in which the business of such dealer is carried on or the premises in which the refinery is located.

CHAPTER IV

Returns and Accounts

126F. Returns as to gold.—(1) Every dealer and every refiner required to apply for a licence, or licensed, under this Part, shall make a return to the Board as to the quantity, description and other prescribed particulars of gold in his possession or under his control, in accordance with the following provisions, namely:—

- (a) where immediately before the commencement of this Part, the dealer is registered under any law with respect to sales tax or the refinery of the refiner is in existence, the return shall be made as to the gold in his possession or under his control on the date of such commencement;
- (b) where the dealer is registered under any such law as aforesaid after the commencement of this Part or the refinery of the refiner is established after such commencement, the return shall be made as to the gold in his possession or under his control on the date of such registration or, as the case may be, such establishment;
- (c) where the dealer is not required to be registered under any such law as aforesaid but has been granted a licence under this Part on an application made by him in this behalf, the return shall be made as to the gold in his possession or under his control on the date of application for the issue of the licence;
- (d) after a return has been made under clause (a) or clause (b) or clause (c) as the case may be, further returns shall also be made as to the gold in the possession or under the control of the dealer or the refiner.

(2) The form in which and the time within which every return (including every further return) referred to in sub-rule (1) shall be made, shall be such as may be prescribed.

(3) Every return including every further return shall be made in triplicate of which one copy shall be authenticated and signed by a person authorised by the Board in this behalf and thereafter shall be returned to the dealer or, as the case may be, the refiner and the copy so returned shall be retained by the dealer or the refiner as the evidence of the return made by him under this rule.

126G. Accounts.—(1) Every dealer and every refiner licensed under this Part shall keep an account, in such form and manner as may be prescribed, of the gold bought or sold or otherwise received or disposed of by him, at each transaction.

(2) Every dealer and every refiner licensed under this rule shall, if so required by the Board,—

- (a) produce before the Board any account, register or other document, and
- (b) furnish to the Board any information relating to the quantity of gold in his possession or under his control or to the purchase, sale or delivery of gold by him.

(3) All accounts, registers and other documents relating to any quantity of gold or to the purchase, sale or delivery thereof and any gold in the possession or under the control of the dealer or the refiner, wherever kept, shall be open to inspection by any person authorised by the Board in this behalf.

126H. Restrictions on possession and sale of gold.—(1) Except in the case of any quantity of gold acquired after the date of making any return, no dealer, and no refiner, who is licensed under this Part shall have in his possession or under his control any gold which has not been included in such return:

Provided that any gold acquired after the date of making such return shall be included in the next succeeding return.

(2) Save as otherwise provided in this Part,—

- (a) no refiner shall sell or deliver gold to, any person other than a dealer licensed under this Part;
- (b) no dealer licensed under this Part shall buy or otherwise acquire, or agree to buy or otherwise acquire, gold, not being ornament, from any person other than a dealer, or refiner, licensed under this Part:

Provided that any such dealer may buy or otherwise acquire or accept gold, not being ornament, from any person if such gold has been included in a declaration made by that person under rule 126I:

(c) no dealer licensed under this Part shall—

- (i) sell or otherwise transfer, or agree to sell or otherwise transfer, or
- (ii) expose or offer for sale or transfer, gold, not being ornament, to any person other than a dealer, or refiner, licensed under this Part:

Provided that a dealer licensed under this Part may sell gold, not being ornament, to any person on production by that person of a permit granted by the Board in this behalf;

(d) no person other than a dealer licensed under this Part shall buy or otherwise acquire or agree to buy or otherwise acquire, gold, not being ornament, except.

(i) by succession, intestate or testamentary, or

(ii) in accordance with a permit granted by the Board in this behalf:

Provided that a refiner may buy or accept gold from a dealer licensed under this Part.

(3) Any gold (other than ornament) which is not required to be declared under this Part may be sold or otherwise transferred under and in accordance with a permit granted by the Board in this behalf.

(4) Notwithstanding anything contained in the foregoing provisions of this rule, a dealer, whether licensed under this Part or not, may accept ornament from any person for the purpose of making new ornament or ornaments from that ornament or polishing or repairing that ornament.

CHAPTER V

Declaration of Gold

1261. **Declaration as to possession of gold other than ornament.**—(1) Every person, not being a dealer or refiner required to apply for a licence, or licensed under this Part, shall within thirty days from the commencement of this Part, make a declaration to the Board in the prescribed form as to the quantity, description and other prescribed particulars of gold (other than ornament) owned by him.

(2) For the removal of doubt it is hereby declared that the declaration referred to in sub-rule (1) shall be made—

- (a) in the case of gold belonging to a minor or a lunatic, by the guardian or manager of such minor or lunatic, as the case may be;
- (b) in the case of gold belonging to an idol or a deity, by the manager of such idol or deity, whether known as *shebait* or manager or by any other name;
- (c) in the case of gold belonging to a person whose properties are under the management of a Court of Wards, by the manager of such Court;
- (d) in the case of gold belonging to a person whose properties are under the management of any administrator or receiver, by such administrator or receiver;
- (e) in the case of gold vested in an executor or an administrator of a will or other testamentary disposition, by such executor or administrator;
- (f) in the case of gold belonging to the members of a firm, by any partner of such firm;
- (g) in the case of gold belonging to an undivided Hindu family, by the head or *karta* of such family;
- (h) in the case of gold which is the subject matter of any public or private trust, by a trustee of such trust;
- (i) in the case of gold belonging to a company incorporated outside India, by any person in charge of the management of such company in India;
- (j) in the case of gold belonging to a temple, mutt, church, mosque or any other religious institution, by the person in charge of the management of such temple, mutt, church, mosque or other religious institution;
- (k) in the case of gold which is *wakf* property, by the *mutwalli* of such *wakf*;
- (l) in the case of gold belonging to any society, club or other association, by the secretary or manager of such society, club or other association.

(3) No person who is either required to make a declaration or a further declaration under this rule or exempted from making such declaration or further declaration under sub-rule (7) thereof, shall, after the commencement of this Part, acquire any gold other than ornament except—

- (a) by succession, intestate or testamentary, or
- (b) in accordance with a permit granted by the Board in this behalf.

(4) If any person who has made a declaration under sub-rule (1) acquires by succession, intestate or testamentary, or in accordance with a permit granted by the Board, or parts with, after such declaration any quantity of gold, not being ornament, he shall, as often as he acquires or parts with any quantity of gold, make within thirty days from the date of such acquisition or parting with, a further declaration to the Board in the prescribed form stating the quantity, description and other prescribed particulars of such gold acquired or parted with by him and giving the prescribed particulars of the person from whom such gold was acquired or in whose favour such gold was parted with, as the case may be.

(5) If any person who does not own any gold, not being ornament, at any time within the period of thirty days from the commencement of this Part, acquires after the expiry of that period by succession, intestate or testamentary, or in accordance with a permit granted by the Board, any quantity of gold, not being ornament, he shall, within thirty days from the date of such acquisition, make a

declaration to the Board in the prescribed form stating the quantity, description and other prescribed particulars of such gold owned by him on the date of such declaration.

(6) If any person, who has made a declaration under sub-rule (5) acquires by succession, intestate or testamentary, or in accordance with a permit granted by the Board, or parts with, any quantity of gold, not being ornament, he shall, as often as he acquires or parts with, any quantity of gold, make within thirty days from the date of such acquisition or parting with a further declaration to the Board in the prescribed form stating the quantity, description and other prescribed particulars of such gold acquired or parted with by him and giving the prescribed particulars of the person from whom such gold was acquired or in whose favour such gold was parted with, as the case may be.

(7) No declaration or further declaration shall be required to be made under the foregoing provisions of this rule in respect of—

- (a) any gold, whether contained in one or more pieces, owned by a minor unless the weight of such gold exceeds twenty grammes.
- (b) any gold, whether contained in one or more pieces, owned by an individual other than a minor unless the weight of such gold exceeds fifty grammes,
- (c) any gold, whether contained in one or more pieces, referred to in clauses (b) to (l) of sub-rule (2), unless the weight of such gold exceeds fifty grammes.

(8) Every declaration or further declaration made to the Board under this rule shall be kept by the Board in safe custody and the particulars thereof shall be entered in a register to be prescribed for this purpose.

(9) Every declaration including every further declaration made under this rule shall be made in triplicate of which one copy shall be authenticated and signed by a person authorised by the Board in this behalf and thereafter shall be returned to the person making the declaration and the copy so returned shall be retained by him as the evidence of the declaration made by him under this rule.

(10) No person other than a dealer and a refiner, licensed under this Part, shall acquire or have in his possession or under his control any quantity of gold required to be declared under this rule unless such gold has been included in a declaration or further declaration made thereunder; and as often as any such person acquires, or parts with, after any such declaration or further declaration, any quantity of gold, the quantity acquired or parted with shall be endorsed by such person and in such manner as may be prescribed, on the copy of the declaration retained by the person who has made the declaration or further declaration and such copy shall be produced by that person within thirty days from the date of such endorsement before the Board who shall make necessary changes in the register and also in the copies of the declaration kept in its safe custody.

(11) Any person in possession or control of any gold, not being ornament, shall be presumed, until the contrary is proved, to be the owner thereof.

CHAPTER VI

Miscellaneous Provisions

126J. Constitution and functions of Gold Board.—(1) The Central Government shall, by notification, constitute a board to be known as the Gold Board consisting of—

- (a) a chairman, and
 - (b) not more than four and not less than two other members, to be appointed by that Government.
- (2) It shall be the duty of the Board—
- (a) by such measures as it thinks fit—
 - (i) to discourage the use and consumption of gold, and
 - (ii) to bring about conditions tending to reduce the demand for gold;
 - (b) to advise the Central Government on all matters relating to gold; and
 - (c) to carry out the purposes of this Part.

(3) The Board shall discharge its functions subject to the general control and directions of the Central Government and shall have power to regulate its own procedure.

(4) The Board may, by general or special order, authorise any person to exercise all or any of the powers exercisable by it under this Part other than the power to hear appeals under rule 126M and this present power of authorisation, and different persons may be authorised to exercise different powers.

(5) Subject to any general or special directions given or conditions attached by the Board, any person authorised by the Board to exercise any powers may exercise those powers in the same manner and with the same effect as if they had been conferred on that person directly by this Part and not by way of authorisation.

126K. Prohibition of use of buildings for carrying on unlicensed refinery.—
No person,—

- (a) being the owner, lessor or landlord of any premises or the agent of such owner, lessor or landlord, shall let the same or any part thereof with the knowledge that the same or part thereof is intended to be used as a refinery or wilfully allow any person to use such premises or any part thereof as a refinery unless the refiner has been licensed under this Part; or
- (b) being the tenant, lessee or occupier or any person in charge of any premises, shall use or allow any person to use such premises or any part thereof as a refinery unless the refiner has been licensed under this Part.

126L. Power of entry, search, seizure, to obtain information and to take samples.—(1) Any person authorised by the Board by writing in this behalf may—

- (a) enter and search any refinery of which the refiner, or the establishment of a dealer who, is licensed under this Part;
- (b) seize any gold in respect of which he suspects that any provision of this Part has been, or is being, or is about to be, contravened, along with the package, covering or receptacle, if any, in which such gold is found and thereafter take all measures necessary for their safe custody.

(2) Any person authorised by the Central Government by writing in this behalf may—

- (a) enter and search any premises, not being a refinery or establishment referred to in sub-rule (1), vaults, lockers or any other place whether above or below ground;
- (b) seize any gold in respect of which he suspects that any provision of this Part has been, or is being, or is about to be, contravened, along with the package, covering or receptacle, if any, in which such gold is found and thereafter take all measures necessary for their safe custody.

(3) The provisions of the Code of Criminal Procedure, 1898 (5 of 1898), relating to search and seizure shall, so far as they are applicable, apply in relation to search and seizure made under this rule.

(4) Any gazetted officer authorised by the Board in this behalf may hold an inquiry for the purpose of ascertaining whether any contravention of any of the provisions of this Part has been, is being, or is about to be, committed and shall for the purposes of such inquiry have power to summon any person whose attendance he considers necessary either to give evidence or to produce any document or other thing.

(5) The Board may call for information from any person for the purpose of ascertaining whether or not there has been any contravention of any of the provisions of this Part.

(6) The Board shall have power—

- (a) to take samples of gold from any dealer, refiner or other person in such manner as may be prescribed;
- (b) to send such samples for assay or analysis to such authority as may be prescribed and to require such authority to send a report to the Board as to the result of the assay or analysis.

126M. Confiscation of gold seized and adjudication.—(1) Any gold seized under rule 126L together with the package, covering or receptacle, if any, in which such gold is found shall be liable to confiscation.

(2) Such confiscation may be adjudged,—

- (a) without limit, by an officer not below the rank of Collector of Customs or Central Excise, authorised by the Central Government;
- (b) where the value of gold together with the package, covering or receptacle, if any, in which it is found, liable to confiscation does not exceed two thousand rupees, by an officer not below the rank of Assistant Collector of Customs or Central Excise, authorised by the Central Government.

(3) An appeal shall lie to the Board against every adjudication of confiscation under sub-rule (2).

(4) Every person adjudicating any confiscation under this rule and the Board hearing any appeal against such adjudication shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of witnesses;
- (b) requiring the discovery and production of any document;
- (c) requisitioning any public record or copy thereof from any court or office;
- (d) receiving evidence on affidavits; and
- (e) issuing commissions for the examination of witnesses or documents.

(5) Every person adjudicating any confiscation under this rule and the Board hearing any appeal against such adjudication shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (5 of 1898).

(6) The Central Government may of its own motion or on the application of any person aggrieved by an appellate order of the Board under sub-rule (3), call for and examine the record of any proceeding in which the Board has passed an order on appeal against any adjudication of confiscation, for the purpose of satisfying itself as to the legality or propriety of any such order and may pass such order thereon as the Central Government thinks fit.

(7) Notwithstanding anything contained in any other law—

- (a) any order passed by the Central Government in revision,
 - (b) subject to such order of the Government, any order passed in appeal by the Board, and
 - (c) subject to the final order of the Central Government in revision and the appellate order of the Board, any adjudication of confiscation,
- shall be final and shall not be called in question in any court.

126N. Transfer or transmission of business.—Where the business of a dealer licensed under this Part or a refinery is transferred by sale, gift, bequest or otherwise or is transmitted by inheritance or is transferred by way of lease, the transferee, heir or lessee shall not carry on such business or run the refinery either in his own name or in some other name unless the transferee, heir, or lessee has, before the expiry of thirty days after the date of such transfer or transmission, made to the Board an application for the issue of a licence in accordance with the provisions of rule 126E:

Provided that nothing in this rule shall be deemed to prohibit the transferee, heir or lessee from carrying on business as a dealer or refiner for the period within which he is required to apply for such licence and if he has applied for such licence, until he is granted the licence or is, by a notice in writing, informed by the Board that a licence cannot be granted to him.

126O. Secrecy and fidelity.—(1) All particulars contained in any return or declaration made or accounts, registers or other documents produced in accordance with this Part shall, save as otherwise provided in sub-rule (3), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), no court shall be entitled to require the Board or any person authorised by the Board under this Part or any officer or other employee of the

Government to produce before it any such return, declaration, accounts, registers or other documents or any part thereof or to give evidence before it in respect thereof.

(2) Every member of the Board shall make a declaration of fidelity and secrecy in such form as may be prescribed.

(3) Any person authorised by the Board under this Part and any other person discharging any functions in the implementation of the provisions of this Part, shall not divulge any information relating to any particular contained in any return or declaration made to or any accounts, registers or other documents produced before or inspected by, the Board or any such person.

(4) Nothing in this rule shall apply to and in relation to the disclosure of any of the particulars referred to in sub-rule (1)—

(a) for the purposes of any prosecution for any offence, or

(b) to any officer or other employee of Government where it is necessary to make such disclosure to such officer or other employee for the purposes of this Part.

126P. Penalties.—(1) Whoever,—

(i) fails or omits to make any return including a further return as required by rule 126F or any declaration including a further declaration as required by rule 126I without any reasonable cause, or makes any statement in such return or declaration which is false and which he either knows or believes to be false or does not believe to be true, shall be punishable with imprisonment for a term which may extend to one year or with fine or with both;

(ii) fails or omits to keep or to produce any account or other document or to furnish any information when required to do so under any provision of this Part, shall be punishable with imprisonment for a term of not less than one month and not more than one year and shall also be liable to fine;

(iii) fails or omits to display any licence as required by rule 126E shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

(2) Whoever,—

(i) refines, processes, melts, converts, deals in, or makes, manufactures or prepares any article of, gold in contravention of any of the provisions of this Part,

(ii) has in his possession or under his control any quantity of gold in contravention of any provision of this Part,

(iii) sells or otherwise transfers or agrees to sell or transfer, or exposes or offers for sale or transfer or delivers or otherwise parts with, any gold in contravention of any provision of this Part,

(iv) buys, or otherwise acquires, or accepts gold in contravention of any provision of this Part,

(v) allows any person to use any premises or any part thereof as a refinery in contravention of any provision of this Part,

(vi) makes, manufactures or prepares or places any order for the making, or the manufacture or preparation of, sells or otherwise transfers or agrees to sell or transfer, or exposes or offers for sale or transfer, any ornament in contravention of rule 126C or any other provision of this Part,

shall be punishable with imprisonment for a term of not less than six months and not more than two years and also with fine.

(3) Whoever contravenes any other provision of this Part for which no punishment is provided in sub-rule (1) or sub-rule (2) shall be punishable with imprisonment for a term which may extend to one month or with fine or with both.

126Q. Limitation of prosecutions.—No prosecution for any offence punishable under this Part shall be instituted against any person except by, or with the consent of, the Board or any person authorised by the Board in this behalf.

126R. Protection of action taken in good faith.—(1) No suit, prosecution or other legal proceedings shall lie against the Central Government or the Board or any

person, authorised by the Central Government or the Board, or performing any functions in the implementation of the provisions of this Part, for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Part or any order made thereunder.

(2) No suit or other legal proceedings shall lie, against the Central Government or the Board or any person, authorised by the Central Government or the Board, or performing any functions in the implementation of the provisions of this Part, for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Part or any order made thereunder.

126S. Members of the Board, etc. to be public servants.—The Chairman and every other member of the Board and any person, authorised by the Board or the Central Government, or performing any functions in the implementation of the provisions of this Part, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

126T. Power of Board to issue directions.—The Board may if it thinks fit, issue directions or orders, not inconsistent with this Part, for carrying out the purposes of this Part.

126U. Power to exempt.—Where on the recommendation of the Board or otherwise the Central Government is of the opinion that it is necessary or expedient in the public interest so to do, it may, by order and subject to such conditions, if any, as it may specify in the order—

- (a) exempt any dealer or any refiner or any other person from the operation of all or any of the provisions of this Part; and
- (b) as often as may be, revoke any such order and again subject, by order any dealer or any refiner or any other person to the operation of such provisions.

126V. Part to be in addition to existing law.—The provisions of this Part shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force or any instrument having effect by virtue of any such law.

126W. Part not to apply to Government.—Nothing in this Part shall apply to or in relation to—

- (a) any gold belonging to, or in the possession or under the control of, the Government,
- (b) any refinery owned or occupied, or any business of a dealer carried on, by the Government.

126X. Government to discharge functions of the Board in certain cases.—Until the Board is constituted in accordance with the provisions of this Part and holds its first meeting, all or any of the functions of the Board may be performed by the Central Government.

126Y. Licensing of dealers in areas without sales tax law.—If in any territory there is no law with respect to sales tax in force, then, every dealer carrying on his business as such dealer in that territory, whose annual turn over is not less than ten thousand rupees, shall be required to be licensed in accordance with the provisions of this Part as if he were a dealer registered under law with respect to sales tax and accordingly all the provisions of this Part shall apply to him as they apply to such registered dealer.

126Z. Saving as to orders.—(1) No order made in exercise of any power conferred by or under any provision of this Part shall be called in question in any court.

(2) Where any orders purports to have been signed by any person authorised by the Board in this behalf in exercise of any power conferred by or under any provision of this Part, the court shall, presume within the meaning of the Indian Evidence Act, 1872 (1 of 1872), that such order was so made by that person."

[No. F. 7(25)63-SB.]

A. BAKSI, Jt. Secy.

